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Court leniency on K-12 funding not working

Contrary to some popular opinions expressed by tax-averse lawmakers at the Washington state Capitol, the Washington state Supreme Court has been lenient and patient about lawmakers' response to the court's landmark McCleary ruling in 2012. Justices have given lawmakers until 2018 to fulfill their constitutional duty to fully fund basic education in a way that doesn't favor rich districts over poor.

By The Olympian

McClatchy Tribune News Service

When it comes to getting a state Legislature's attention in order to adequately finance public schools, there are many options – including court sanctions, threats to shut down schools and big swats delivered with two-by-fours. We favor nonviolence over extremes.

The approach by the Kansas Supreme Court this year to invalidate a state school budget – thus threatening the closure of that state's schools this fall – was also extreme.

Yet it appears to have worked. The Kansas Legislature came up with a replacement funding plan during a June special session.

But four years after the high court's first McCleary ruling – and almost 40 years after a similar ruling in a Seattle schools case – no viable plan for financing an alternative to levies has surfaced.

In Olympia, the Washington state Supreme Court held a hearing Wednesday morning on whether our state Legislature should remain in contempt of court, subject to \$100,000 daily fines, for its slow-as-drying-paint response to the court's landmark McCleary ruling in 2012.

Contrary to some popular opinions expressed by tax-averse lawmakers at our state Capitol, the court has been lenient and patient. Justices have given lawmakers until 2018 to fulfill their constitutional duty to fully fund basic education in a way that doesn't favor rich districts over poor.

Yet, despite putting billions of new dollars into K-12 education, our Legislature has repeatedly failed to deliver a plan for committing new funds to the problem. This year lawmakers did approve a plan for a plan: basically the hiring of consultants who can identify how much money is spent on education, specifically compensation for schoolteachers and other staff.

The study should clarify by January just how much of an illegal subsidy our school districts are receiving from local, voter-approved property-tax levies. These levies are considered unconstitutional because they favor tax-rich districts over poor ones.

But the hiring is just now happening.

Given recent history we can't buy claims that our justices are overreaching. Certainly our system of government operates with a distinct and constitutional separation of powers between the legislative, executive and judicial branches.

But four years after the high court's first McCleary ruling – and almost 40 years after a similar ruling in a Seattle schools case – no viable plan for financing an alternative to levies has surfaced.

So, should the court continue the daily fines against the Legislature? True, the fines have only symbolic value, given that justices left it up to lawmakers to establish an account to hold the funds, which ultimately are earmarked for schools. But the symbolism has merit.

Dropping the fines or contempt finding without taking some other action would wave a white flag.

So, should the court veto the state budget for schools and let the new school year grind to a halt? They did that on the eve of a new school year in 2015 with a ruling invalidating state support for charter schools.

It's now too late. The time for that would have been months ago.

Should the court keep up pressure on lawmakers? No question, though what works is a mystery.

Ultimately the deciding pressure may have to come from voters who demand that incumbent lawmakers and new candidates level with them. That means showing their cards on how to pay for schools.

This column reflects the views of the editorial board of The Olympian newspaper in Olympia.

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